

U.S. Serial No. 09/533,842  
Response to the Office action of March 12, 2004

### **Remarks**

Claims 1-39 are pending in the above-identified patent application. The applicant affirms the election of claims 7-9, 12, and 29-35, which were provisionally elected via telephone. Claims 14-20 and 36-39 have been withdrawn from consideration. Accordingly, claims 1-13 and 21-35 are at issue in the above identified patent application. Of the claims at issue, claims 1 and 29 are independent. By way of the foregoing, claims 1 and 29 have been amended. In view of the foregoing amendments and the following remarks, reconsideration of the application is respectfully requested.

Independent claim 1 recites, *inter alia*, receiving broadcast content at a local device proximate a display on which the broadcast content is to be displayed to a recipient, generating a locally produced selection factor at the local device, wherein the locally produced selection factor corresponds to the recipient of the broadcast content and is based on information relating to the recipient, and adapting the broadcast content according to the locally produced selection factor.

Independent claim 29 recites, *inter alia*, a selection factor generator proximate a display on which the broadcast content is to be displayed, the selection factor generator generating a locally produced selection factor corresponding to a recipient of the broadcast content and a selector selecting between the broadcast content from the broadcast feed and at least one of the plurality of content segments from a storage device according to the locally produced selector factor.

As shown above, claims 1 and 29 recite a local device or a selection factor generator proximate a display on which broadcast content is to be displayed. The local device and the selection factor generator generate a locally produced selection factor corresponding to a recipient that is to receive the broadcast content. The locally produced selection factor is used to adapt or select the broadcast content.

The Office action cited Hite (US 6,002,393) against claims 1 and 29. However, the disclosure of Hite is deficient. Hite is directed to a system and method for delivering targeted advertising to consumers using direct commands issued from a central location. While on its face, Hite appears to be similar to claims 1 and 29, there is a fundamental difference between

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the claims and the Hite disclosure. The difference is that Hite is a headend or centralized system, which means that the advertisements displayed to viewers in the Hite system are dictated and controlled by the broadcaster via command signals. Hite discloses that instructions are broadcast from a central location to tell viewers' hardware the commercials to display and the commercials to ignore. (4:10-13; 5:29-30).

The operating principles of Hite are quite different from the operating principles of the claimed system. The claimed system is a device-based system in which programming content to be viewed by customers is determined by the hardware located at the homes of the customers, which is proximate the display on which the programming content is to be displayed. The devices located at customers' homes generate locally produced selection factors that determine the content to be viewed.

The differences between the claims and the Hite disclosure are significant because systems such as Hite, which rely on individually addressing each consumer's hardware, are not easily scalable because as the subscription base of such a system grows, so too does the communication overhead associated with issuing commands to each consumer. In sharp contrast to Hite, the claimed system is readily scalable because it is the consumer devices that generate selection factors determinative of the programming to be presented to consumers. Accordingly, as subscriber base grows, the communication overhead of the claimed system does not likewise grow because there is no need to address each customer's hardware.

Hite does not disclose or suggest that devices proximate displays on which programming is to be presented could or should generate selection factors that determine the programming with which a consumer will be presented. Accordingly, it follows that Hite does not anticipate the pending claims. Further, because the operational principles of Hite are completely different from the recitations in the claims, the claims cannot be rendered obvious by Hite. Because claims 1 and 29 are not anticipated or rendered obvious by Hite, it follows that no claims dependent thereon can be anticipated or rendered obvious thereby. Accordingly, it is respectfully submitted that the claims at issue are in condition for allowance.

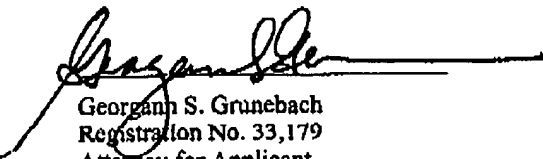
If there is any matter that the examiner would like to discuss, the examiner is invited to contact the undersigned representative at the telephone number set forth below.

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Respectfully submitted,

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The DIRECTV Group, Inc.  
RE/R11/A109  
P.O. Box 956  
El Segundo, CA 90245  
Phone: (310) 964-4615

  
Georgann S. Grunebach  
Registration No. 33,179  
Attorney for Applicant